

---

**Manchester City Council  
Report for Resolution**

**Report to:** Constitutional and Nomination Committee - 10 October 2012

**Subject:** Appointment of Independent Persons for Consideration of Complaints against Members and Appointment of Independent Members of the Council's Standards Committee

**Report of:** The City Solicitor

---

**Purpose of the Report:**

To enable the Constitutional and Nomination Committee to consider the recommendations of the Interview Panel in relation to the appointment of:

- (i) Independent Persons (as defined by Chapter 7 of the Localism Act 2011) to assist the Council's Monitoring Officer and Hearing Panel in dealing with allegations that Members of Manchester City Council have acted in breach of the Council's Code of Conduct for Members and with allegations that Members of Ringway Parish Council have acted in breach of Ringway Parish Council's Code of Conduct for Members; and
- (ii) Independent Members of the Council's Standards Committee, one of whom is to be appointed as the Chair of the Council's Standards Committee.

**Recommendations:**

That the Constitutional and Nomination Committee considers this report and makes recommendations to Council as follows:

- (1) that the Council appoints Elizabeth Carmichael to act as an Independent Person under the Transitional Arrangements for a term of office beginning on 10 October 2012 and ending on 13 July 2013, and that the Council appoints Alan Eastwood and Naseem Malick to act as Independent Persons for a term of office of four years starting on 10 October 2012;
- (2) that the Council agrees to pay each of its Independent Persons an annual allowance of £1,679 plus a daily allowance for each Hearing Panel attended of £104;
- (3) that the Council appoints Amanda Isles and Stephen Hardy to act as Co-Opted Independent Members of the Council's Standards Committee for an initial term of office of two years starting on the 10 October 2012;
- (4) that the Council appoints Stephen Hardy to act as Chair of the Standards Committee.

**Wards Affected:**

All.

**Financial Consequences for Revenue Budget:**

None.

**Financial Consequences for the Capital Budget:**

None.

**Implications for:**

Antipoverty	Equal Opportunities	Environment	Employment
No	No	No	No

**Contact Officers:**

Susan Orrell 234 3087	s.orrell@manchester.gov.uk
Karen Chadwick 234 3539	k.chadwick@manchester.gov.uk

**Background Documents:**

1. Report of the City Solicitor to Council of 11 July 2012 on the Localism Act 2011 - New Code of Conduct for Members and Arrangements to deal with Complaints.
2. Chapter 7, Sections 26 to 37 and Schedule 4 of the Localism Act 2011.
3. The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 (S.I. 2012 No. 1463) as amended by The Localism Act he Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) (Amendment) Order 2012 (S.I. 2012 No. 1714).
4. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012 No. 1464).

## 1. Background and Context

- 1.1 On the 11 July 2012 the Council adopted a new Code of Conduct for Members (“the New Code”) and new Arrangements for dealing with Complaints about Members (“the Arrangements”) as required by Chapter 7 of the Localism Act 2011 (“the Localism Act”). The Council also adopted new arrangements in relation to the Council’s Standards Committee, deciding to establish and appoint a new “voluntary” Standards Committee to be composed of 6 elected Members of the Council, 1 Member of Ringway Parish Council, and 2 Co-opted Independent Members (with one of the Co-opted Independent Members to be appointed to act as Chair of the Council’s Standards Committee).
- 1.2 The Council delegated to the Monitoring Officer the making of arrangements for the recruitment and selection of at least two “Independent Persons”, whose appointment must be approved by a majority of the Members of the Council in accordance with Section 28(8)(c)(ii) of the Localism Act.

## 2. The Role of the Council’s “Independent Persons”

- 2.1 Under the Localism Act, the Council is required to have in place Arrangements under which written allegations that a Member of the Council has failed to comply with the Council’s New Code, (or that a Member of Ringway Parish Council has failed to comply with Ringway’s New Code of Conduct for Members) can be investigated, and decisions on such allegations can be made. As part of these “Arrangements” the Localism Act requires the Council to include provision for the appointment of at least one “Independent Person”.
- 2.2 Section 28(7) sets out the statutory role of the Council’s Independent Person, and provides that the Council **must** seek (and take into account) the views of its Independent Person “before it makes its decision on an allegation that it has decided to investigate”. In addition, the Localism Act provides that the Council **may** seek the views of its Independent Person “in relation to an allegation” other than in circumstances where this consultation is mandatory, and that a Member of the Council or a Member of Ringway Parish Council whose behaviour is the subject of an allegation **may** seek the views of the Council’s Independent Person. Although the Localism Act only requires the Council to appoint “at least one” Independent Person, the number of different advisory roles assigned to the Independent Person in the Localism Act creates the potential for conflict issues if the Council were only to appoint a single Independent Person.
- 2.3 The Council’s Arrangements set out the role of the Council’s Independent Person in assisting the Council’s Monitoring Officer with the Initial Assessment of an allegation, and require the Council’s Monitoring Officer to consult with the Independent Person before taking a decision on whether an allegation is to be accepted for investigation, dealt with informally, or rejected. Where an allegation has been referred for investigation then the Council’s Arrangements set out the role of the Council’s Independent Person in assisting the Council’s Monitoring Officer with taking a decision regarding an Investigating Officer’s report into an allegation. Where the Council’s Monitoring Officer, having

considered an Investigating Officer's Report, decides to refer an allegation for a hearing before the Council's Hearing Panel, the Council's Arrangements set out the role of the Independent Person in relation to assisting the Hearing Panel with taking a decision on the matter.

### **3. Transitional Arrangements in respect of former Independent Members of the Council's Standards Committee**

- 3.1 The Localism Act prevents a person who has been a Member or Co-Opted Member of a Council Committee (including the Council's previous statutory Standards Committee) at any time during the 5 years ending on 30<sup>th</sup> June 2012 from being appointed by the Council as an Independent Person, other than for a transitional period ending on 1<sup>st</sup> July 2013.

### **4. Length of Term of Appointment of the Council's "Independent Person"**

- 4.1 Apart from the restriction on the length of the appointment of an Independent Person who was a Member of the Council's previous statutory Standards Committee that is referred to above, there is no restriction under the Localism Act itself or in any Regulations made under it in relation to the length of appointment of an Independent Person.
- 4.2 The Interview Panel would suggest that the Council's Constitutional and Nomination Committee should recommend to Council that, where the length of appointment of an Independent Person is not restricted by the Transitional Provisions to a term ending on 1 July 2013, that the Council should appoint an Independent Person for a term of four years commencing on 10 July 2012.

### **5. Procedure for Appointment of Independent Person**

- 5.1 In accordance with the requirements of the Localism Act, the City Solicitor made arrangements for the vacancies for the Council's Independent Persons to be advertised both on the Council's website and in the Manchester Evening News. Applications from persons who were interested in being appointed as the Council's Independent Person were invited with a closing date of 30 July 2012.
- 5.2 The Council received 22 applications for the role of the Council's Independent Person, and shortlisted 9 applicants. An Interview Panel made up of the Council's Monitoring Officer, and two elected Members of the Council's new Standards Committee, Councillor Paul Andrews and Councillor Mark Clayton carried out interviews on the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> October. All of the applicants who were interviewed were of a very high calibre, and the Interview Panel agreed that they should recommend the appointment of Elizabeth Carmichael, Alan Eastwood and Naseem Malick to act as the Council's Independent Persons.
- 5.3 All of the applicants who were interviewed by the Council's Interview Panel for the role of the Council's Independent Person were asked whether, if as an alternative to the role of Independent Person, they would be interested in being an Independent Member of the Council's new Standards Committee.

The Interview Panel agreed that they should recommend the appointment of Amanda Isles and Stephen Hardy to be Independent Members of the Council's new Standards Committee. The Interview Panel agreed that they should recommend the appointment of Amanda Isles to be the Chair of the Council's new Standards Committee.

**6. Allowances to be paid to the Council's Independent Persons and the Council's Independent Members.**

6.1 Following consideration by the Council's Independent Remuneration Panel, the Council's Members' Allowances Scheme for 2012 provides that the Co-Opted Independent Member who acted as Chair of the Council's statutory Standards Committee under the previous Standards regime would be paid an Annual Allowance of £1,679, and that Co-Opted Independent Members of the Council's Standards Committee would be paid an Annual Allowance of £873. In addition, the Council's Members' Allowances Scheme for 2012 provides for the payment of a Daily Allowance to a Co-Opted Independent Member of the Council's Standards Committee of £156 for each Hearing, Assessment or Review Panel attended as Chair of the Panel, and of £104 for each Hearing, Assessment or Review Panel attended as a Panel Member. It is not proposed that any changes should be made to the Council's Members' Allowances Scheme.

6.2 The Council's Interview Panel agreed to advise the Council's Constitutional and Nomination Committee to recommend to Council that the Council's three Independent Persons should be paid an Annual Allowance of £1,679 plus a Daily Allowance of £104 for each Hearing Panel attended. Under the previous Standards Regime, most of the Panel Meetings held were Assessment and Review Panel Meetings. Under the Council's new Arrangements, there is no requirement for a Sub-Committee of the Standards Committee to carry out Assessment and Review Hearings and therefore the number of Panel Meetings will be fewer and the payments made in respect of attendance at Panel Meetings should be considerably less than under the previous Standards Regime.

**7. Recommendations**

These are set out at the front of this Report.